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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/848,822	05/19/2004	Torsten Frederiksen	606-71-PCT-CON	4784
22145	7590	07/11/2006	EXAMINER	
KLEIN, O'NEILL & SINGH, LLP 43 CORPORATE PARK SUITE 204 IRVINE, CA 92606			JOHNSON, JERROLD D	
			ART UNIT	PAPER NUMBER
			3728	

DATE MAILED: 07/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/848,822

Applicant(s)

FREDERIKSEN, TORSTEN

Examiner

Jerrold Johnson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 27 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-7 and 9-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 9-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 07/Sept/04 **44**
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### ***INTERVIEW SUMMARY***

On 16 June 2006 the Examiner, Jerrold Johnson and Howard Klein discussed the claims with respect to whether or not the data medium cover is positively recited therein. Both Mr. Johnson and Mr. Klein were in agreement that the claims do not positively recite the data medium cover. US 5,662,222 was also discussed.

### **DETAILED ACTION**

#### ***Specification***

The disclosure is objected to because of the following informalities:

There are numerous mistakes in the specification including:

Page 6, line 8, "12" should be --14--;

Page 7 "16" is set forth in the spec., but is not in the drawing, "17" is identified as a "cut line" but it is not shown as such in the drawings, "window" does not have a corresponding reference number.

Page 8, line 6, "temper" should be "tamper".

These are likely only some of the errors. A thorough review of the specification should be undertaken. Appropriate correction is required.

Prior art MR 1998 00856 set forth in the specification was not provided.

### ***Drawings***

The drawings are objected to because:

The lead line extending from numeral 16 does not extent to the proper location; and numeral 17 corresponds to different elements in the drawings as can be shown in Fig. 3 and Fig. 4c. There may be other errors, as well. A thorough review of the drawings should be undertaken.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

The claims are objected to because of numerous informalities and errors. For example in claims 1 and 7 front and rear "panels" are also referred to as "walls"; claim 1, line 17 "round" should be "around"; claim 7, "circumferential" should be "peripheral"; claim 7, "window" is both set forth as "aperture" previously in the claim as well as in the specification.

These errors are likely only some of the errors in the claims. A thorough review of the claims should be undertaken.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 7 and 9-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Frederiksen WO 00/47495.

Frederiksen discloses an earlier version of the invention with all of the claimed elements, but without the specific inventive concept of the sealing label as it is set forth in the disclosure of the present application. Frederiksen, however, does disclose a

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sealing label 7, which although being quite different from that set forth in the present disclosure, is inherently capable of being used in the manner set forth in the intended use passages in the claims. It is not the Examiner's position that one "would" use the sealing label in this way. The Examiner's position is that the sealing label of Frederiksen is inherently capable of being used as claimed.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Frederiksen WO 00/47495 in view of Examiner Official Notice.

Frederiksen does not disclose the exact sealing label configuration set forth in these claims. However, the configuration of an adhesive tape having a supporting plastic foil is a commonly used configuration of a sealing label and, accordingly, it would have been obvious to one of ordinary skill in the art to use a configuration of label known to be suitable for this intended use.

***Claim Rejections - 35 USC § 102***

Claims 1 and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Thayer et al. US 5,662,222.

Thayer, like Frederiksen above, discloses the present invention, which is best shown in Fig. 7.

Thayer discloses the use of a sealing label in the form of an adhesive tape to secure panel 10 to panel 18. This sealing label, like the sealing label 7 of Frederiksen as set forth above, is also inherently capable of being used in the manner set forth.

***Claim Rejections - 35 USC § 103***

Claims 2,3, 5-7 and 9-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thayer et al. US 5,662,222 in view of Frederiksen WO 00/47495 and Examiner Official Notice.

Thayer does not disclose the apertures created by through going perforations or the exact sealing label configuration.

Frederiksen discloses the use of apertures created by through going perforations in a very similar package as Thayer.

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Accordingly, it would have been obvious to one of ordinary skill in the art to provide apertures created by through going perforations so as to reveal to the end receiver of the package the contents of the package.

Frederiksen does not disclose the exact sealing label configuration set forth in these claims. However, this configuration of an adhesive tape having a supporting plastic foil is a commonly used configuration of a sealing label and, accordingly, it would have been obvious to one of ordinary skill in the art to use a configuration of label known to be suitable for this intended use. Additionally, it would have been obvious to one of ordinary skill in the art to use tamper proof through going cuts as are set forth in Frederiksen so as to provide a tamper proof property to the sealing label of Thayer.



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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jerrold Johnson whose telephone number is 571-272-7141. The examiner can normally be reached on 9:30 to 6:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 571-272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JD. 

  
Mickey Yu  
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